84-1958

No.

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ALEXANDER L. STEVAS,
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1984

EDWARD RONWIN,

Petitioner,

vs.

HON. WILLIAM A. HOLOHAN; HON. FRANK X. GORDON, JR.; HON. JACK D. H. HAYS; HON. JAMES DUKE CAMERON; HON. STANLEY G. FELDMAN; PHILIP E. VON AMMON and RUTH G. MCGREGOR,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

EDWARD RONWIN
P.O. Box 3585
Urbandale, Iowa 50322
(515) 223-8819
Petitioner pro se

QUESTIONS PRESENTED FOR REVIEW

I. Does 28 U.S.C. §1257 Apply to Non-Final Arizona Supreme Court Orders?

II. Does the Statement of a Claim Which is a Challenge on Constitutional Grounds to a Rule, or Application Thereof, of the Arizona Supreme Court Require More Than One Injured Party?

A. With Respect to 28 U.S.C.§1257, When is a Civil Rights Action "Personal" and When is it a "General Challenge on Constitutional Grounds?"

B. Is the 9th Circuit Rule for Differentiating a Personal from a General Challenge in Conflict With This Court's Approach?

C. When Are "Personal" Claims and"General Challenges" "Inextricably Intertwined?"

III. Was The Summary Judgment Granted to the Non-Judicial Respondents Violative of Rule 56, Fed. Rules of Civil Proc.?

IV. Is the Injunction Granted Against Peti-

tioner Violative of Petitioner's Right of Access to Federal Courts?

V. Are the Grant of Attorneys' Fees Against Petitioner a Perversion of the Intent of 42 U.S.C. §1988?

VI. Is This Court Delinquent in its Failure to Provide a Mechanism for the Enforcement of its Decisions?

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Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

OPINIONS BELOW

The United States District Court for the District of Arizona entered a "Memorandum Opinion and Order" on November 22, 1983 which, inter alia, granted a motion to dismiss to the judicial respondents; granted a summary judgment to the non-judicial

respondents; granted a motion for a permanent injunction prohibiting petitioner from filing civil rights actions which allege conspiracy (but not prohibiting such actions if no conspiracy is alleged); granting attorney's fees to an entity (The State Bar of Arizona) which has never been a party to any phase of this litigation; and, denying petitioner's motion for summary judgment and for attorney's fees. On November 30, 1983, the District Court entered a "judgment" reiterating the holding in said "Memorandum Opinion and Order."

On Appeal, the United States Court of Appeals, Ninth Circuit, following refusal to allow oral argument, entered a "Memorandum", effectively a "judgment", on March 7, 1985 afirming the District Court's judgment; (see Appendix). Thereafter, the Circuit Court entered an Order on April 2, 1985 denying without oral argument, petitioner's

Petition for Rehearing,[1](see Appendix).

JURISDICTION

This Petition is filed within 90 days after April 2, 1985. This Court's jurisdiction is invoked pursuant to 28 U.S.C. §1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS

United States Constitution,

Fifth Amendment:

No person shall * * * be deprived of life, liberty, or property, without due process of law; ***

Fourteenth Amendment:

Section 1. * * * No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive

1 Petitioner was sent two separate "Orders," each containing slightly different texts and which denied said Petition for Rehearing. The second was file-stamped April 22, 1985; the first has no file-stamp on it, but the Circuit Court Clerk's office indicates by telephone that it was entered on April 2, 1985. Petitioner has assumed that the April 2, 1985 Order is the proper Order.

any person of life, liberty, or property, without due process of law; * * *.

28 U.S.C. § 1257:

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal * * *.

(2) By appeal * * *.

(3) By writ of certiorari, * * *.

42 U.S.C. § 1988:

* * * In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985 and 1986 of this title, title IX of Public Law 92-318, or title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

STATEMENT OF THE CASE

The complaint filed in the district court arose out of petitioner's consolidated 8th

and 9th applications for admission to the Arizona State Bar which were denied by judicial respondents after the complaint in this action was filed in the U.S. District Court (and after petitioner passed the Arizona Bar Examination). The denial of the consolidated applications was based on the purported ground that petitioner was allegedly "not mentally able" to practice law which judgment was made, (i) without a statement of charges against petitioner; (ii) despite the opinions of two psychiatrists and one psychologist that petitioner is "mentally able" and without the presence of any contradictory evidence submitted or testified to by anyone; and (iii) without allowance of an evidentiary hearing despite petitioner's pointed request for same.

In this Court, petitioner does not attack the denial of said applications; nor, did petitioner attack that denial in the district court or the circuit court.

Inter alia, what petitioner attacks is the rule of the judicial respondents, (Ariz. Sup. Ct. rule 28(c)XII(C), Vol. 17A Ariz. Rev. Stat.), or the application thereof, which judicial respondents have employed to deny petitioner's applications for roughly ten years without giving petitioner an opportunity to be heard in an evidentiary hearing with due process safeguards.

After passage of the bar examination, petitioner demanded an evidentiary hearing with full due process safeguards in a motion filed on May 4, 1983 with the judicial respondents, (complaint at 10). That motion was denied without comment on May 25,1983, (complaint at 11). Thereupon, petitioner filed his complaint in the U.S. Dist. Ct. on June 6, 1983. Subsequently, the judicial respondents denied petitioner's consolidated applications for admission to the Arizona State Bar in Matter of Ronwin, 139 Ariz. 576, 680 P.2d 107 (July 6, 1983),

wherein the judicial respondents admit that no evidentiary hearing was allowed because the truth of petitioner's allegations was declared of no importance to the decision, 680 P.2d at 115.

In the district court, respondents filed a motion to dismiss, or alternatively, for summary judgment and for permanent injunction, and a motion for attorney's fees. Petitioner responded to said motions and moved for attorney's fees. In a "Memorandum Opinion and Order" entered November 22, 1983,the district court dismissed petitioner's claim as regards his demand for an evidentiary hearing as being "personal" rather than a general attack on constitutional grounds on a rule, or application thereof, of the judicial respondents thereby the district court allegedly lacked subject matter jurisdiction. As to petitioner's claim that respondents engaged in a conspiracy to deny petitioner's civil rights, the district court granted

summary judgment to the non-judicial respondents on the alleged grounds that the claim was "conclusory." The district court also declared the novel theory that one person cannot bring a general challenge on constitutional grounds to a state court rule or to its application unless two or more persons are mistreated by the rule. One of the non-judicial respondents, averred that the Arizona State Bar paid respondents' legal fees, so the district court awarded attorney's fees allegedly under 42 U.S.C. §1988, nominally to respondents, but actually to the Arizona State Bar which has never been a party to any proceeding in this action. An abbreviated judgment was entered by the district court on November 30, 1983.

On Appeal, the 9th Circuit refused to allow oral argument and filed a "Memorandum" opinion which totally ignored every point of law and fact brought to that court's attention by petitioner's briefs,(see Appendix).

The circuit court then denied petitioner's Petition for Rehearing on April 2, 1985.[1]

REASONS FOR GRANTING THE WRIT

I. No Final Arizona Supreme Court Judgment Is Attacked in the Complaint; Hence 28 U.S.C. § 1257 Did Not Apply And the District Court Had Subject Matter Jurisdiction.

The order of judicial respondents under attack in the complaint was their denial on May 25, 1983, of petitioner's motion of May 4, 1983 for allowance of an oral, evidentiary hearing with full due process safeguards, ¶'s XXVIII and XXIX, complaint. No final order or judgment of the Arizona Supreme Court was challenged below; consequently, the requirement of 28 U.S.C. §1257 that a final judgment of the highest state court is only reviewable on certiorari in this Court as to petitioner's personal, civil rights claim(s), District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 103 S.Ct. 1303, 1317 (1983) did not impede the subject matter jurisdiction of the dis-

trict court either over petitioner's personal or his general challenge to judicial respondents' practice of denying bar admission applications without holding evidentiary hearings thereon.

While a final judgment was ultimately entered by the judicial respondents, that was done on July 6, 1983 in Matter of Ronwin, 680 P.2d 107 (Ariz. 1983) a month after the complaint was filed on June 6, 1983. Both the district court and the circuit court totally ignored the fact that the complaint could not possibly attack a final judgment not in existence when the complaint was filed; and both courts totally ignored the fact that the complaint attacked said non-final order of May 25, 1983 which denied petitioner's motion for an oral, evidentiary hearing with due process safeguards.

Unless any order of the highest court of a state, final or non-final, deprives a district court of its subject matter jurisdic-

tion under 28 U.S.C.§1343, the district court had subject matter jurisdiction of petitioner's claims whether same were personal or general challenges to the rules of the judicial respondents, or to the application thereof, whereby bar applications are denied without due process hearings.

II. Does the Statement of A Claim Which is A Challenge on Constitutional Grounds to a Rule, or Application Thereof, of the Arizona Supreme Court Require More Than One Injured Party?

A. With Respect to 28 U.S.C.§1257, When Is A Civil Rights Action "Personal" and When Is It A "General Challenge on Constitutional Grounds"?

The District Court held that, Mem. Op. and Order, p. 3:

> Questioned during oral argument, Mr. Ronwin admitted that he did not know of any other applicants who had sought and been denied such an evidentiary hearing on their lack of qualifications for admission to the State Bar. This admission clearly indicates that he seeks relief particular to his individual petition rather than a remedy of general application.

Further on, the district court said, Mem. Op. and Order, p. 19:

> A careful reading of the complaint reveals that the allegations are personal to Mr. Ronwin and to no one else. He admitted as much at oral argument.

Obviously, the district court grounds its labelling of petitioner's claim as "personal" on the novel notion that it requires two or more plaintiff's who are denied an evidentiary hearing on their bar admission applications before a general challenge on constitutional grounds can be made to the rules, or application thereof, of the judicial respondents by which they deny bar applications without allowing evidentiary hearings thereon.

While there were two plaintiffs in Feldman, the complaints of each were filed on separate days approximately two months apart; the particular facts are different and other variances occur between Feldman's and Hickey's complaints, Feldman, 103 S.Ct. at 1307, 1309; and it is clear that the Feldman decision could have been rendered on the basis of either complaint alone, Feldman, 103 S.Ct.

at 1314-1317. In Feldman, this Court set no requirement that multiple plaintiff's were necessary to state a general challange and this Court has already recognized that civil rights are "personal" or individual, Lynch v. Household Finance Corp., 405 U.S. 538, 552, 92 S.Ct. 1113, 1122 (1972), reh. den. 406 U.S. 911. Any other rule would require a person to join a group in order to have his civil rights enforced. The theme of the district court, which the 9th Circuit affirmed, is manifestly unconstitutional.

B. The 9th Circuit Rule Differentiating A Personal From a General Challenge Is In Conflict With This Court's Approach.

In the quotation above at 11, the district court claims that petitioner "..seeks relief particular to his individual petition rather than a remedy of general application..." That conflicts with the prayer of the complaint which asks for general relief, pp.14-15, complaint. The district court attempted

to apply the standard declared by the 9th Circuit in Brown v. Bd. of Bar Examiners, 623 F.2d 605 (9 Cir. 1980) where the identical question faced that court as faced this Court in Feldman;i.e., the constitutionality of a bar admission waiver rule. Because Ms. Brown asked for personal relief, despite her attack onthe constitutionality of the waiver rule, the 9th Circuit claimed that Ms. Brown's claim was personal and that the district court in that case did not have subject matter jurisdiction, Brown, 623 F.2d at 610-611. However, if this Court will review the appendix filed in the Feldman case it will find that both Hickey's and Feldman's complaints asked only for personal relief, see Joint Appendix, Feldman, pp. 43a-44a; 66a. Nevertheless, and contrary to what was done to Ms. Brown, this Court stated, Feldman, 103 S.Ct. at 1315-1316:

> To the extent that Hickey and Feldman mounted a general challenge to the constitutionality of Rule 46I(b)(3),however, the District Court did have subject matter jurisdiction over their complaints.

The 9th Circuit decision in Brown is in conflict with this Court's decision in Feldman as to how a personal claim is distinquished from a general challenge, and the district court is likewise in error.

C. When Are "Personal" Claims and "General Challenges" "Inextricably Intertwined"?

The district court wrote, Mem.Op. and Order, p. 2-3:

> Allegations of unreasonable and discriminatory action by the state court in dealing with the applicant have been found to be "inextricably intertwined" with decisions made in judicial proceedings. Hence, the District Court does not have jurisdiction. Feldman, 103 S.Ct. at 1317.

Aside from the fact that Feldman does not hold blanketly that all such allegations are "inextricably intertwined", the district court's view,affirmed by the 9th Circuit, makes it impossible for an individual plaintiff to state a general challenge since some person's factual basis must supply the predicate for the general challenge as did the "personal" facts upon which Hickey and Feldman separately relied. Even, the 9th Circuit

recognizes that, Brown, 623 F.2d at 610:

> An individual claim may naturally be utilized to confer sufficient standing to challenge general rules and regulations...,

which both the 9th Circuit and the district court forgot in this case.

It is obvious that there is confusion over what constitutes "inextricable intertwining" of a personal with a general challenge. Petitioner submits that a "general challenge on constitutional grounds would be 'inextricably intertwined' with a civil rights plaintiff's personal claim(s), if the district court, in giving remedy on the general claim could not do so without first giving remedy on the personal claim..," Petitioner's Opening Brief, in 9th Circuit. Thus, as applied in the Feldman case, the personal and general claims of each plaintiff would have been "inextricably intertwined" if the district court could only correct the alleged unconstitutional infirmities of the waiver rule by ordering the admission to the Dis-

trict of Columbia bar of Hickey and of Feldman.

III. Was the Summary Judgment Granted to the Non-Judicial Respondents Violative of Rule 56, Fed. Rules of Civil Proc.?

The district court granted summary judgment to the non-judicial respondents on the alleged grounds that petitioner did not reply to the affidavits of the non-judicial respondents which denied petitioner's allegations that said respondents and the judicial respondents conspired to deny petitioner's civil right to an evidentiary hearing, Mem. Op. and Order, p. 5. The district court's position is not faithful to the record. Attached to petitioner's response to respondents' motion for summary judgment is an affidavit by petitioner averring that one of the judicial respondents declared that they "solicit, rely upon and act upon advise and comments from their counsel (the non-judicial respondents) on whether or not to admit applicants to the State Bar of

Arizona." The denials in the affidavits of the non-judicial respondents merely raised a fact question for the jury demanded to determine. The district court distorted its application of Rule 56, F.R.C.P., to avoid the embarrassing evidence that the essence of the comment attributed by petitioner to one of the judicial respondents is captured on a tape record and easily proved thereby, Petitioner's Opening Brief in 9th Cir., pp. 24-25.

IV. Is the Injunction Granted Against Petitioner Violative of Petitioner's Right of Access to Federal Courts?

In discussing its reasons for granting the permanent injunction, the district court, with generous error, recited the alleged facts surrounding several of the cases petitioner has earlier filed to obtain a halt to judicial respondents' practice of denying bar applications without hearing, Mem. Op. and Order, pp. 6-21. The district court attempted to draw an exact analogy with pe-

titioner's actions and those in several other decisions,but the analogy fails because, in those latter decisions, such as Rudnicki v. McCormick, 210 F.Supp. 905 (D. Rh. Island 1962), the plaintiffs brought multiple, consecutive actions based on the identical event which occurred at the identical time. Petitioner's suits were filed after the denial without hearing of separate, distinct bar admission applications which applications were generally filed a year apart from each other. Subsequent actions on an identical tort committed at different times are not barred by any rule of law, Lawlor v. National Screen Service Corp., 349 U.S. 322, 327-328, 75 S.Ct. 865, 868 (1955); which finds approval in the 9th Circuit, Mahroom v. Hook, 563 F.2d 1369, 1376-1377 (9 Cir. 1977), except in petitioner's case.

In its discussion of petitioner's prior actions, the district court tried to portray petitioner's suits as all being without merit,

even though not one has been allowed to come before a jury, but in the district court's eagerness to express its disdain for petitioner's suits, said court completely overlooked all phases of Hoover v. Ronwin, ____U.S.____, 104 S.Ct. 1989 (1984) which even this Court thought of sufficient moment to consider and over which this Court was certainly not unanimous in its result, (4 to 3 in favor of Hoover). The district court also overlooked the fact that the prior dismissals of petitioner's civil rights actions occurred when the question of the subject matter jurisdiction was far from clarified. Even the 1980 decision of the 9th Circuit in Brown is in conflict in part with this Court's holding in Feldman, (see above at 13-17). It is only with Feldman that a clear pronouncement was made at the highest judicial level on the intrinsic conflict between the terms of 28 U.S.C.§1257 and of 28 U.S.C.§1343 and the effect thereof

on a district court's subject matter jurisdiction in a bar applicant's civil rights action.

There was no justification for the district court's grant of a permanent injunction which merely denies due process, aids the conspiracy of which petitioner complains and was intended to hinder petitioner's determination that the judicial respondents are going to be forced to respect the U.S. Constitution and the rights of bar applicants thereunder.

V. Is The Grant of Attorney's Fees Against Petitioner a Perversion of the Intent of 42 U.S.C. §1988?

The district court granted $9,500 in attorney's fees (Order entered, Dec. 27, 1983), purportedly because petitioner's action, "..is vexatious and frivolous and was brought to harass the [respondents].," Mem. Op. and Order, p.22. Attached to respondents' Motion to Dismiss, etc., is an affidavit by one of the non-judicial respondents averring that

legal fees in this action are paid by the "State Bar of Arizona to represent various defendants in actions filed by Edward Ronwin." 42 U.S.C. §1988 allows attorney's fees, under certain conditions, to defendants not to good samaritans. The State Bar of Arizona has never been a party to any phase of this action and is not entitled to reimbursement by an award of attorney's fees.

In addition to the grant of attorney's fees by the district court, the 9th Circuit also awared attorney's fes, Memorandum, p. 3, based on the alleged grounds that petitioner's appeal was "frivolous," but a specific amount was never sought by respondents.

For nearly ten years, petitioner's bar applications have been denied without hearing, without the right to cross-examine adverse witnesses or to present his own; without any statement of charges prior to the denials; in short, with a total denial of due process, and that, in the face of this Court's deci-

sions in Willner v. Comm. on Char. & Fitness, 373 U.S. 96, 103-105, 83 S.Ct. 1175, 1180-1181(1963) and in Schware v. Bd. of Bar Examiners, 353 U.S. 232, 238-239, 77 S.Ct. 752, 756 (1957), pointedly requiring full due process hearings before an application to practice any profession can be denied. Furthermore, any simpleton can see that the rules of the judicial respondents dealing with hearings on bar applications (17A A.R.S., Rules 28(c)XII(C) and (F)) do not make the holding of even one hearing mandatory; and, it is obvious that in applying those rules, the judicial respondents do not consider themselves bound by this Court's decisions in Willner; Schware and in Greene v. McElroy, 360 U.S. 474, 492, 79 S.Ct. 1400, 1411 (1959). Moreover, the judicial respondents employ a definition of "mental ability" which defies medical description or any scientific sense, Application of Ronwin, 113 Ariz. 357, 555 P.2d 315, 317 (1976). Also, as dis-

cussed above, there are more than reasonable grounds to hold that the district court did, indeed, have subject matter jurisdiction over the judicial respondents, (see §I,II, supra); at least, the question is reasonably debatable. Where is the "vexatious" or "frivolous" nature of petitioner's action? How can the action be honestly described as "brought to harass?"

Even, if arguendo subject matter jurisdiction were absent from the district court because of 28 U.S.C.§1257, is not the persistent denial by judicial respondents of due process before denying bar applications an intrinsically unconstitutional, immoral and corrupt act? Wherefore does the district court (and 9th Circuit) award such behavior with attorney's fees?

The action of both the district court and the circuit court in awarding attorney's fees is a perversion of the intent of Congress in passing the 1976 amendment of 42 U.S.C.

§1988, see Senate Report, No. 94-1011.

This Court ought not to allow such a perversion to stand and ought to start defining such vague terms as "frivolous," "vexatious," "harass," "embarass," etc. The perversion is nothing more than a club to deny civil rights, particularly of those with thin pockets, using the very tool that Congress fashioned with the intent to aid the enforcement of civil rights in this nation and to which Congressional intent this Court should pay heed.

VI. Is This Court Delinquent in its Failure to Provide a Mechanism for the Enforcement of its Decisions?

In this case and for years, there has been notorious, blatant and continuous disregard of constitutional requirements and of this Court's decisions by the judicial respondents. That result arises because this Court lacks a sound procedure for enforcing its decisions beyond any particular case. Whenever, petitioner has come to this Court, he

has gotten a denial of his request for review which constitutes an approval of the vicious, unconstitutional and immoral behavior of the respondents. Even if this Court does receive approximately 5,000 applications for review per annum and can only handle 150-250 that should not bar appointment of a special master to review the facts and the law and to make a recommendation to this Court. Unless some mechanism is adopted to ensure review by this Court, particularly of the "personal" claims of bar applicants (and lawyers-the only two classes that are more directly affected by 28 U.S.C.§1257 than persons in other professions), the constitutional promise of equal protection before the law and of fair and due process in the application of the law becomes a hollow and hypocritical covenant.

CONCLUSION

For the foregoing reasons, the Writ should be granted.

Respectfully submitted

_____

Edward Ronwin

(APPENDIX FOLLOWS)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Filed: March 7, 1985

(Caption)

MEMORANDUM*

(The asterisk denotes a footnote in the Memorandum which will be placed at the end of this reproduction, as will the other footnote that appears in the Memorandum.)

BEFORE: CHOY, PREGERSON, and NORRIS, CIRCUIT JUDGES

Edward Ronwin appeals the district court's judgment in his civil rights action alleging a conspiracy by the Arizona Supreme Court and two private attorneys to deprive bar applicants of their constitutional rights. The district court entered judgment for defendants/appellees, enjoined Ronwin from filing further civil rights suits concerning his bar applications without leave of the court, and awarded attorney's fees to the defendant/appellees.

The judgment below is affirmed. The district court lacked subject matter jurisdiction over Ronwin's action against the judi-

cial defendants/appellees because the action essentially challenged the state supreme court's decisions regarding his individual application, rather than bar admission rules or practices. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 483 (1983); Tofano v. Supreme Court of Nevada, 718 F.2d 313, 314 (9th Cir. 1983). Judgment for the private defendants/appellees was also appropriate because Ronwin failed to allege enough specific facts to state a claim. See. Jones v. Community Redevelopment Agency, 733 F.2d 646, 649 (9th Cir. 1984); Mosher v. Saalfeld, 589 F.2d 438, 441 (9th Cir. 1978) (per curiam), cert. denied,442 U.S. 941 (1979).

The district court did not abuse its discretion by enjoining Ronwin from filing further suits because Ronwin has repeatedly filed meritless suits in connection with his applications to the Arizona Bar, and the injunction allows Ronwin adequate access

to the courts. See 28 U.S.C. § 1651; Wood v. Santa Barbara Chamber of Commerce, Inc., 705 F.2d 1515, 1523-26 (9th Cir. 1983), cert. denied, 104 S.Ct. 1446 (1984).

Moreover, the district court did not abuse its discretion by awarding attorney's fees to the defendants/appellees because Ronwin's action was groundless. See 42 U.S.C. §1988; Christiansburg Garment Co. v. Equal Employment Opportunity Commission,434 U.S. 412, 421 (1978); Ellis v. Cassidy, 625 F.2d 227, 230 (9th Cir. 1980). Because of the frivolous nature of Ronwin's suit, we additionally award defendants/appellees their attorney's fees on appeal. See Fed. R. App. P. 38; 28 U.S.C. § 1912; Wood v. Santa Barbara Chamber of Commerce, 699 F.2d 484, 485 (9th Cir. 1983)(per curiam), cert. denied,104 S.Ct. 1445 (1984). We will determine the amount of attorney's fees on appeal upon presentation of appropriate documentation supporting the request for

such fees.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

(Caption)

(No Filing Stamp)
(Clerk's Office reports the Order was filed on April 2, 1985)

ORDER

Before: CHOY, PREGERSON and NORRIS, CIRCUIT JUDGES

The panel as constituted in the above case has voted to deny the petition for rehearing. The petition for rehearing is denied.

Office - Supreme Court, U.S.
FILED
MAY 26 1985
ALEXANDER L. STEVAS.
CLERK

(2)

No. 84-1958

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1984

EDWARD RONWIN,

Petitioner,

vs.

HON. WILLIAM A. HOLOHAN; HON. FRANK X. GORDON, JR.; HON. JACK D.H. HAYS; HON. JAMES DUKE CAMERON; HON. STANLEY G. FELDMAN; PHILIP E. VON AMMON and RUTH G. MCGREGOR,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SUPPLEMENTAL APPENDIX

EDWARD RONWIN
P.O. Box 3585
Urbandale, Iowa 50322
(515) 223-8819
Petitioner pro se

BEST AVAILABLE COPY

42 pp

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

EDWARD RONWIN,
Plaintiff,

FILED: Nov. 22, 1983

No.CIV 83-1036 PHX CLH

v.

HOMORABLE WILLIAM A. HOLOHAN, et al.,
Defendants.

MEMORANDUM OPINION AND ORDER

This is an action brought by plaintiff Edward Ronwin against the Justices of the Arizona Supreme Court and two private attorneys pursuant to the Civil Rights Act of 1871, 42 U.S.C. §§1983, 1985(3) and 1986. Plaintiff complains that defendants have conspired under color of state law to deny constitutionally guaranteed rights to applicants for admission to the State Bar of Arizona.

The defendants moved to have the claims against them dismissed, or alternatively, for summary judgment. Defendants also moved that plaintiff be permanently enjoined from

filing any future actions relating to the question of his admission to the State Bar, absent court approval. Both defendants and plaintiff have moved that attorney's fees be awarded them.

The motion to dismiss will be granted for the reason that this Court does not have subject matter jurisdiction. The motion to enjoin plaintiff will be granted. Attorney's fees will be assessed against plaintff.

MOTION TO DISMISS

Defendants base their motion to dismiss primarily on the grounds that this Court lacks subject matter jurisdiction. In addition, they contend that this Court cannot enjoin state proceedings due to notions of federalism and comity; that this Court cannot issue a writ in the nature of mandamus to the Arizona Supreme Court; and that plaintiff has failed to state a claim upon which relief can be granted.

There is no dispute between the parties

as to the law. This Court lacks subject matter jurisdiction if plaintiff's claim is a challenge to a final judgment of the Arizona Supreme Court in the matter of Mr. Ronwin's individual application for admission to the Bar. District of Columbia Court of Appeals v. Feldman, _____U.S._____, 103 S.Ct. 1303 (1983); Brown v. Board of Bar Examiners of the State of Nevada, 623 F.2d 605 (9th Cir. 1980). In that instance, Mr. Ronwin's only recourse is review by the United States Supreme Court. 28 U.S.C. §1257; Feldman, 103 S.Ct., at 1317; Brown, 623 F.2d at 609-610. This is true even if the complaint alleges challenges to federally protected constitutional rights. Feldman, 103 S.Ct., at 1317; Doe v. Pringle, 550 F.2d 596, 599 (10th Cir. 1976), cert. denied, 431 U.S. 916, 97 S.Ct. 2179, 53 L.Ed.2d 227 (1977). Allegations of unreasonable and discriminatory actions by the state court in dealing with the applicant have been found to be "inextricably

intertwined" with decisions made in judicial proceedings. Hence, the District Court does not have jurisdiction. Feldman, 103 S.Ct., at 1317.

On the other hand, this Court can exercise jurisdiction if plaintiff questions either the constitutionality of a state rule or regulation of general application or the administration of a rule or regulation. Brown, 623 F.2d,at 609-610; See Feldman, 103 S.Ct., at 1316. Such rules, promulgated in a non-judicial setting, can be examined without the District Court's reviewing the state court's actions in its judicial capacity. Feldman, 103 S.Ct., at 1316-1317.

Mr. Ronwin's complaint must be closely read to determine which type of claim he is asserting. It is the "essence" of the complaint rather than its "superficial" attack which is determinative. Brown, 623 F.2d, at 610.

Although the complaint is couched in general terms, a close examination reveals that Mr.

Ronwin disputes the constitutionality of ad hoc procedures that grew out of long-term, ongoing attempts by both parties to resolve issues relating to his repeated applications to the State Bar of Arizona. In particular, he seeks an order that "no application be denied without an evidentiary hearing first being accorded..." Questioned during oral argument, Mr. Ronwin admitted that the did not know of any other applicants who had sought and been denied such an evidentiary hearing on their lack of qualifications for admission to the State Bar. This admission clearly indicates that he seeks relief particular to his individual petition rather than a remedy of general application.

In addition, allegations of conspiracy are particular to Mr. Ronwin in that the alleged "secret communications' and urgings of Mr. von Ammon and Ms. McGregor have only to do with him. There are no allegations in the complaint that imply a larger conspiracy to

exclude other applicants by the denial of their constitutional rights.

In sum, Mr. Ronwin's complaint sets forth a request that this Court interfere with the exercise of the Arizona Supreme Court' judicial function as it relates to the matter of plaintiff's individual application for admission to the Arizona State Bar. It is not a challenge to procedures customarily followed by the Arizona Supreme Court in making admission determinations in general. It follows that this Court lacks subject matter jurisdiction over Mr. Ronwin's claim against the justices of the Arizona Supreme Court.

While this Court does not have subject matter jurisdiction over the justices of the Arizona Supreme Court, it does have that jurisdiction over Ms.McGregor and Mr.von Ammon. A private party who conspires with a state official to deprive another of constitutional rights can be liable under 42 U.S.C. §1983. Adickes v. Kress & Co., 398

U.S. 144, 90 S.Ct. 1598, 1605-06, 26 L.Ed.2d 142 (1970).

However, another basis for the motion to dismiss is that it fails to state a claim for which relief can be granted.

The complaint alleges:

> "[Ms.McGregor and Mr. von Ammon](sic) are private, non-state employees,... who have aided and abetted the process, as respects RONWIN, by lying to this court in several cases, by conducting secret communications with judges of this court and/or their clerks, and by urging JUSTICES to deny RONWIN his constitutionally guaranteed civil rights in his applications to the State Bar of Arizona." Complaint, at 14.

Affidavits by Ms.McGregor and Mr. von Ammon were filed in support of the motion to dismiss. They averred that their conversations with the justices of the Arizona Supreme Court concerning Mr. Ronwin "have been entirely limited to those applications already acted upon by the Arizona Supreme Court, and took place within the client-counsel context after the applications were made the subject of litigation." These affidavits are uncontroverted.

If matters outside the pleadings, such as affidavits, are presented to the Court with a motion to dismiss a pleading for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the motion shall be treated as one for summary judgment under Rule 56. When a motion for summary judgment is supported by affidavits, the adverse party may not rest upon the allegations of the pleadings but must by affidavit, depositions or answers to interrogatories set forth specific facts showing that there is a genuine issue for trial. Fed. R. Civ. P. 56(a). Since Mr. Ronwin has not submitted anything to controvert the affidavits of Ms. McGregor and Mr. von Ammon, they are entitled to summary judgment.

MOTION FOR A PERMANENT INJUNCTION

The defendants have moved to have Ronwin permanently enjoined from filing civil rights actions relating to the question of this ad-

mission to the State Bar of Arizona, absent prior court approval. This Court has the power to issue all writs necessary or appropriate in aid of its jurisdiction. 28 U.S.C. A. §1651.

The statement of facts that follows is based upon judicial notice pursuant to Rule 201, Federal Rules of Evidence. Subsection (c) of the rule permits this Court to take judicial notice, whether requested or not.

I. STATEMENT OF FACTS

Mr. Ronwin was graduated from Arizona State University's College of Law in January of 1974. He took and failed the Arizona bar examination given in February of that year. His petition to the Committee on Examinations and Admissions for review of the grading of his examination papers was denied. A similar petition to the Arizona Supreme Court was denied. He then petitioned the United States Supreme Court for a writ of certiorari, and

it was denied. Ronwin v. Committee on Examinations and Admissions, 419 U.S. 967, 95 S.Ct. 231, 42 L.Ed.2d 183 (1974).

Mr. Ronwin's petition to take the July 1974 bar examination was denied because the Committee on Examinations and Admissions was unable to make the requisite finding that he was mentally and physically able to engage in the practice of law. See Rule 28(c)(IV), Arizona Rules of the Supreme Court, 17A Arizona Revised Statutes. The Arizona Supreme Court then appointed a Special Committee to conduct a formal evidentiary hearing pursuant ot its Rule 28(c)(XII)(C). After a two-day hearing, the Special Committee found that Ronwin suffered from a personality disorder that "causes him to bring and pursue with great persistence groundless claims in court proceedings and otherwise even though he knows or should reasonably know such claims to be groundless, and that hereby others will be subjected to needless expense and

concerns." Application of Ronwin, 113 Ariz. 357, 358, 555 P.2d 315 (1976). Concluding that because of his personality disorder, Ronwin "will probably...bring and prosecute groundless claims and subject clients, parties, the Court and adversary counsel to groundless charges of misconduct and impropriety if his view of the merits of the claims he presented should be vigorously opposed and be found to be without merit by the court," Id., the Special Committee declined to recommend Ronwin for admission to the Bar. The validity of the Special Committee's conclusion is amply demonstrated by the actions Ronwin has brought in this court.

While the Supreme Court disagreed with the Special Committee's finding that Mr. Ronwin's personality disorders would cause him to bring groundless actions, it agreed that he was not mentally able to practice law. Application of Ronwin, 113 Ariz. 375, 555 P.2d 315 (1976).

Since then, Mr. Ronwin has filed seven actions in this court pursuant to 42 U.S.C. §§1983, 1985 and 1986. In each action he has accused the defendants of conspiring to deprive him of various constitutional rights. The first of these actions, Ronwin v. Daughton, No. CIV 76-872, was commenced on November 26, 1976. Named as defendants were George Read Carlock and Robert D. Myers, Chairman and Vice Chairman of the Committee on Examinations and Admissions in 1974; Mark Wilmer, Chairman of the Special Committee; Willard Pedrick and Alan Matheson, then the Dean and Associate Dean of Arizona State University's College of Law; Donald Daughton, counsel for the State Bar of Arizona during the hearing; Francis Enos, a psychologist; John Frank, Ronwin's own lawyer at the special hearing; and Lewis & Roca, Mr. Frank's law firm.[1] Ronwin alleged that the defendants had conspired

[1]In all of his actions, Mr. Ronwin has also named the spouses.

to "orchestrate" a sham hearing before the Special Committee. Among other things, it was alleged that the defendants had employed false affidavits, suborned witnesses to perjury, threatened prospective counsel for Ronwin, and refused to call witnesses whose testimony was "of obvious crucial effect." The case was originally assigned to Judge William C. Copple of this Court. He recused himself and assigned the case to Judge Manuel L. Real of the Central District of California. On March 4, 1977, the complaint was dismissed and judgment was entered in favor of the defendants on the grounds that the Court lacked subject matter jurisdiction, the complaint did not present a substantial federal question, the claim was barred by res judicata and, as to the members of the Special Committee, the action was barred by the doctrine of judicial immunity. The judgment was affirmed by the Court of Appeals by a memorandum opinion in Ronwin v. Daughton, No. 77-2318 (9th Cir., Aug. 9, 1979).

Seventeen days later on December 13, 1976, Mr. Ronwin filed Ronwin v. Segal, No. CIV 76-924. Named as defendants were the members of the Committee on Character and Fitness in 1976. On August 30, 1976, Mr. Ronwin filed another application for admission to the State Bar. The Committee had informed the Arizona Supreme Court that it was unable to make findi gs that the applicant meets the character and fitness requirements and, therefore, was unable to recommend his admission. Mr. Ronwin alleged that the defendants had conspired to deprive him of rights, privileges and immunities secured by the First, Fifth and Fourteenth Amendments. The case was also assigned to Judge Real. On June 9, 1977, Judge Real granted the defendants' motion to dismiss. The judgment was affirmed by the Court of Appeals in Ronwin v. Segal, No. 77-2567 (9th Cir. Nov. 14, 1980).

In 1977 Mr. Ronwin filed another application for admission to the State Bar. The

Committee on Character and Fitness informed the Arizona Supreme Court that it declined to act on the application because members of the committee were involved in litigation with Ronwin. The committee requested the appointment of a special committee to consider the application. Instead, the Arizona Supreme Court acted directly and denied the application. On March 20, 1978, Mr. Ronwin filed an action in this Court titled Ronwin v. Gage, No. CIV 78-214. Named as defendants were members of the State Bar of Arizona who served on its Committee on Character and Fitness in March 1977 and the Justices of the Arizona Supreme Court. In addition to alleging that he had been deprived of various constitutional rights, Mr. Ronwin also alleged that "The acts and omissions of the Defendants were part of a design to deprive Plaintiff of a cause of action against Committee Members.. under 42 U.S.C.A. §1983 in consequence of a summary denial without due process of Plain-

tiff's application." This case was also assigned to Judge Real. On October 9, 1979, summary judgment was granted in favor of the defendants on the grounds that the complaint failed to state a claim upon which relief could be granted, Ronwin lacked standing to seek the injunctive relief requested, the court was prohibited by the principles of federalism and comity from granting the injunctive relief sought, the court lacked authority to issue a writ in the nature of mandamus to the Arizona Supreme Court and its officers, the court lacked jurisdiction over a collateral attack on a state court judgment, the action was barred by the doctrines of res judicata and collateral estoppel and the action was barred by the doctrine of judicial immunity. Attorney's fees of $4,527.50 were awarded to the defendants. No appeal was taken from that decision.

Mr. Ronwin's fourth civil rights action was Ronwin v. von Ammon (von Ammon I), CIV

79-175, which was commenced on March 6, 1979. Named as defendants were the members of the Arizona Supreme Court, Judge William P. Copple of this Court, Judge Real, Mr. von Ammon, Ms. McGregor and the law firm of which Mr. von Ammon and Ms. McGregor were members. While the action stemmed from the Supreme Court's denial of Ronwin's application of December 15, 1978, for admission to the State Bar, the complaint repeated many of the allegations made in Daughton, Segal and Gage. It was alleged that Judge Copple had assigned cases to Judge Real "for the purpose of obtaining a quick dismissal...regardless of the merits and that Judge Real had accommodated Judge Copple and his co-conspirators;" that Judge Real tolerated illegal activity by Mr. Frank; that Judge Real had "demonstrated great con-concern for, favor to and deference to RONWIN's adversaries coupled with abuse of his discretion toward RONWIN;" that the justices continued to consider his applications despite

their obvious bias and prejudice; that the acts of the justices rose to the level of violation of the criminal laws; and that Mr. von Ammon and Ms. McGregor had acted "to deter an adjudication of the aforesaid suits filed by RONWIN in this Court and have aided, abetted and encouraged the denial of due process and equal protection to [Ronwin] (sic) with respect to RONWIN's application of December 15, 1978." On May 14, 1979, summary judgment was granted to Mr. Frank. On May 21, 1979, Ronwin's claim as to Judges Real and Copple was dismissed on the grounds of judicial immunity. On July 19, 1980, the complaint was dismissed as to the remaining defendants for failure to state a claim. On April 2, 1981, this Court awarded attorney's fees to the defendants in the amount of $5,640. Mr. Ronwin's appeal was consolidated by the Ninth Circuit Court of Appeals with his appeal in the case discussed in the next paragraph and was affirmed by memorandum

opinion, Ronwin v. von Ammon,Nos. 81-5148 and 81-5149 (9th Cir., Aug. 16, 1982).

The fifth action, Ronwin v. von Ammon, CIV 80-289 PHX (von Ammon II), was filed on April 18, 1980. Named as defendants were Judges Real and Copple, Judge Water E. Craig of this Court, John P. Frank, Willard H. Pedrick, Alan A. Matheson, George Read Carlock, Robert D. Myers, Mark Wilmer, Donald D. Daughton, Dr. Francis A. Enos, Wallace J. Furstenau, the Clerk of this Court; George B. Nielson, Jr., at that time an Assistant United States Attorney who had defended Judges Real and Copple in Cause No. 79-175, Phillip V. von Ammon, Rught F. McGregor; and the Justices of the Arizona Supreme Court. The defendants were alleged to have conspired to deny Ronwin his rights under the Fifth and Fourteenth Amendments and to have engaged in "a willful, reckless and malicious support of anti-semitic activities." On July 18, 1980, the action against Judges Copple, Craig and Real was dismissed because it was "totally frivolous and vexa-

tious;" the complaint was dismissed as to Dean Pedrick and Associate Dean Matheson because of res judicata; the complaint was dismissed as to Mr. Frank, Mr. Daughton, Dr. Enos, Mr. Wilmer, Mr. Carlock, Mr. Myers, Mr. von Ammon and Ms. McGregor because it failed to state a claim upon which relief could be granted. On January 28, 1981, the complaint was dismissed against Mr. Furstenau and Mr. Nielson because it failed to state a claim upon which relief could be granted and plaintiff's allegations were frivolous and vexatious, and it was dismissed against the Justices of the Arizona Supreme Court because of a lack of subject matter jurisdiction. On May 26, 1981, this Court assessed Mr. Ronwin attorney's fees in the amount of $1,505.

Mr. Ronwin appealed form the judgments entered in von Ammon I and von Ammon II. The Court of Appeals consolidated the appeals and affirmed the judgment by a memorandum

opinion. Ronwin v. von Ammon, Nos. 81-5148 and 81-5149 (9th Cir., Aug. 16, 1982). That court also awarded attorney's fees against Ronwin in the amount of $1,000 because the appeal was clearly frivolous and because Ronwin had so multiplied the proceedings in the consolidated appeals as to increase costs unreasonably and vexatiously.

Mr. Ronwin's sixth action, Ronwin v. Fogel, CIV 82-896 was filed on June 14, 1982, and is presently assigned to Judge Earl Carroll of this Court. Named as defendants are the Justices of the Arizona Supreme Court, the members of that Court's Committee on Examinations, the State Bar of Arizona, Educational Testing Service and the National Conference of Bar Examiners. The last two defendants produce the "Multi-State Bar Examination," which is used in most, if not all, states as a part of the bar examination. The defendants are charged with conspiracy to violate the constitutional rights of bar applicants by ad-

ministering a bar examination in a manner which is "irrationally related to the alleged purpose of said Bar examination and is devoid of reasonable justification." Because the case is still pending, it is not being relied on to support an injunction.

On May 25, 1983, the Arizona Supreme Court denied Mr. Ronwin's eighth and ninth applications for admission to the State Bar of Arizona. The basis of the order was set forth in an unpublished opinion, In the Matter of Edward Ronwin, SB-52-8 and SB-52-9 (Arizona Supreme Court, July 6, 1983).

Ronwin filed this action on June 6, 1983. Named as defendants are the justices of the Arizona Supreme Court, Mr. von Ammon and Ms. McGregor. The justices of the Arizona Supreme Court are alleged to have conspired "to deny due process and equal protection of the law and the rights and immunities of citizens to Bar applicants, including RONWIN, who challenge their methods and those of their agents."

Among other things, the justices were charged with manipulating hearings and encouraging fraud in judicial proceedings, permitting alteration and destruction of official records, tolerating and encouraging perjured testimony and deliberately employing dilatory tactics to delay and harass bar applicants.

Mr. von Ammon and Ms. McGregor are alleged to have "aided and abetted the process, as respects RONWIN, by lying to this Court in several cases, by conducting secret communications with judges of this Court and/or their clerks, and by urging that JUSTICES deny RONWIN his constitutionally guaranteed civil rights in his applications to the State Bar of Arizona."

As discussed above, the Court is dismissing the complaint against the justices because of lack of subject matter jurisdiction and is awarding summary judgment in favor of Ms. McGregor and Mr. von Ammon.

To summarize, in the past seven years Ronwin

has filed seven civil rights cases alleging conspiracies to deny him admission to the State Bar of Arizona by depriving him of rights, privileges and immunities secured by the First, Fifth and Fourteenth Amendments. He has named as defendants not only the persons directly involved in the admission process--the Justices of the Arizona Supreme Court and the members of the State Bar of Arizona who have served on its Committees on Examination and Admissions and on Character and Fitness and on the Special Committee appointed by the Arizona Supreme Court--he has also named three United States district court judges whose only offense appears to be that they were somehow connected with one or more of these cases; the Clerk of this Court, who performs a purely ministerial function; the lawyers who defended various defendants; a psychologist, who testified as to his mental fitness; and the former Dean and Associate Dean of his law college. All of the cases

except one have been or will be terminated by dismissal or by summary judgment. The other is still pending. Mr. Ronwin has appealed four judgments. All were affirmed. He has been assessed attorney's fees totaling $12,672.50.

II. DISCUSSION

In von Ammon II, motions of some of the defendants to permanently enjoin Ronwin from filing future actions related to the question of his admission to the State Bar of Arizona were denied. The time has now come to grant such a motion.

The All Writs Act, 28 U.S.C.§1651, empowers district counts (sic) to enjoin repetitive litigation. Wood v. Santa Barbara Chamber of Commerce, Inc., 705 F.2d 1515 (9th Cir. 1983); Clinton v. United States, 297 F.2d 899 (9th Cir. 1961). Litigiousness alone will not support such an injunction. Pavilonis v. King, 626 F.2d 1075 (1st Cir. 1980); Ruderer v. United States, 462 F.2d 897 (8th Cir. 1972).

However, in many cases like this one, injunctions have issued.

A case clearly on point is Rudnicki v. McCormack, 210 F.Supp. 905 (D. Rh. Island 1962) which consisted of four consolidated cases against various federal and state judges, the governmental attorneys who represented them, and the clerk of a federal court. The defendants were alleged to have conspired to deprive plaintiff of his civil rights--the judges by granting motions filed by defendants or in refusing to grant motions filed by plaintiff in prior litigation, the governmental attorneys by representing the judges, and the clerk of the court by receiving and filing papers in connection with such suits. The Court's order enjoining plaintiff from filing further actions was based, in part, on a findin "that the institution of these baseless actions has resulted in harassment of the defendants and expense to the governments which they represent, as well as a burden upon the office

of the Clerk of this Court, because of the necessity of receiving, filing and processing these lawsuits and the multitude of purely frivolous papers for which the plaintiff has been responsible." 210 F.Supp. at 911.

Another case on point is Boruski v. Stewart, 381 F.Supp. 529 (S.D.N.Y. 1974), aff'd. 493 F.2d 301 (2nd Cir. 1974) where plaintiff was enjoined from further lawsuits against various federal judges, officials and departments. The court noted that "It is not uncommon for a disappointed litigant to bring a subsequent action alleging that the adverse decisions resulted from prejudice or misconduct of virtually every person in authority who functioned on his claim; and where it is apparent that the litigation is baseless, the issuance of an injunction is proper." 432 F.Supp. at 858. Accord. Gordon v. U.S. Department of Justice, 558 F.2d 618 (1st Cir. 1977)(Plaintiff filed a series of actions against all federal district court judges in Massachusetts, all cir-

cuit judges in the First Circuit and all Justices of the United States Supreme Court for ruling against him). See also, Adams v. American Bar Association, 400 F.Supp.219 (E.D. Penn. 1975)(Plaintiff had filed "extraordinary" number of lawsuits throughout the country against federal and state judges and officials).

Mr. Ronwin's civil rights actions in this Court clearly fall within the pattern of the cases discussed above. He sues the persons who rule against him in court proceedings or Bar proceedings and adds as additional parties lawyers, an expert witness and even the clerk of this court. Every one of the five prior cases that have been terminated was by dismissal or summary judgment; the claims were not meritorious enough to require trials. Every time Mr. Ronwin has appealed, the judgment has been affirmed.

Not only do these lawsuits constitute harassment of the various defendants, they also

impose an intolerable strain upon the resources of this court. An enormous amount of judicial and clerical time has been expended in disposing of these cases.

At first blush, it would appear that this case should be distinquished from the prior five Ronwin actions. Here Mr. Ronwin has named only the Justices of the Supreme Court, Ms. McGregor and Mr. von Ammon as defendants; has alleged that he is acting in behalf of "all applicants similarly situated;" and has accused the justices of the Supreme Court of conspiring to "deny due process and equal protection of the law..to Bar applicants, including RONWIN, who challenge their methods and those of their agents." He clearly attempted to frame his complaint to give this Court subject matter jurisdiction in light of the earlier ruling in Ronwin v. von Ammon. The Court of Appeals ruled "the district court lacked jurisdiction over these claims because it was without power to review Ronwin's per-

sonal, rather than general, constitutional challenges to the Arizona Supreme Court's decision regarding his individual bar applications." Ronwin v. von Ammon, slip op. at 2. A careful reading of the complaint reveals that the allegations are personal to Mr. Ronwin and to no one else. He admitted as much at oral argument.

Another basis for awarding injunctive relief is the apparent fact that awards of attorney's fees in prior cases have not served to deter Mr. Ronwin. In three of the prior cases this Court has assessed attorney's fees totaling $11,672.50. Additionally, the Court of Appeals assessed attorney's fees against him in the amount of $1,000 in Ronwin v. von Ammon. These assessments have had no deterrent effect on Mr. Ronwin, possibly because he has never paid them. An injunction will be a stronger deterrent.

In its opinion In the Matter of Edward Ronwin, the Arizona Supreme Court identified

a tactic of Ronwin's which further supports the propriety of injunctive relief:

> "Habitual filing of actions against adjudicatory officers, witnesses and opposing counsel is both vexatious and harassing. Worse, it is a tactic calculated to intimidate. It cannot be tolerated unless we are willing to surrender reason to those whose conduct is uninhibited by reality and civility." [emphasis supplied] (emphasis is in the original).

Ronwin's various cases contain an implied threat:

> "Rule against me or oppose me and I"ll sue you."

The intimidating nature of his litigation is underscored by Ronwin v. Shapiro, 657 F.2d 1071 (9th Cir. 1981). Dickinson, a student member of the Arizona Law Review, wrote a casenote on the Arizona Supreme Court's 1976 decision in Application of Ronwin, in which he quoted verbatim from the opinion. When Shapiro, the editor-in-chief of the review refused to print either a retraction or an article that Ronwin had prepared,which contended that the Supreme Court's opinion was a result of fraud, perjured testimony and

conspiracy, Ronwin sued Dickinson, Shapiro and the Board of Regents of the Universities and State Colleges of Arizona for defamation. This Court dismissed Ronwin's complaint and he appealed the dismissal. The Court of Appeals affirmed. What law student is willing to write about any matter in which Ronwin may be involved if he knows that he might be sued by Ronwin just as Dickinson was?

Every lawyer who serves on any committee of the State Bar of Arizona which deals with anything which might involve Mr. Ronwin must be aware that taking a position contrary to that of Mr. Ronwin potentially subjects the lawyer and his or her spouse to a lawsuit. Every judge who presides over a case in which Mr. Ronwin is involved must be aware that if he rules against Mr. Ronwin, he is subjecting himself and his wife to a lawsuit. Ronwin's tactic of intimidation simply cannot be tolerated.

While injunctive relief is proper in this

case, Ronwin cannot simply be denied all access to the courts. The injunction in this case should be limited to restraining Ronwin from filing civil rights actions alleging conspiracies relating to the refusal of the Arizona Supreme Court to admit him to the practice of law in the State of Arizona.

III. ATTORNEY'S FEES

Both sides have moved for an award of attorney's fees. A reasonable attorney's fee may be awarded as part of the costs to the prevailing party, other than the United States, in any action to enforce a provision of Sections 1981, 1983 and 1986 of Title 42 of the United States Code. 42 U.S.C. 1988. In order for prevailing defendants to recover attorney's fees, the suit against them must be "vexatious, frivolous, or brought to harass or embarrass." Hensley v. Eckerhart, ___ U.S.___, 103 S.Ct. 1933, 1937,n.2 (1983).

The defendants are the prevailing parties. This action is vexatious and frivolous and

was brought to harass the defendants. Upon a proper showing, the defendants are entitled to an award of attorney's fees as part of costs, pursuant to Section 1988.

ORDERS

IT IS ORDERED as follows:

1. Dismissing the complaint as to the defendant Justices of the Arizona Supreme Court for lack of subject matter jurisdiction.

2. Granting summary judgment in favor of the defendants McGregor and von Ammon for the reason that there is no genuine issue of material fact and they are entitled to summary judgment as a matter of law.

3. That an injunction issue restraining Mr. Ronwin from filing any action in this court or any other court pursuant to Section 1983, 1985 and 1986 of Title 42 of the United States Code against the Justices of the Arizona Supreme Court, members of the State Bar of Arizona and any other persons, alleging

that the defendants have conspired to deprive Mr. Ronwin of constitutional rights by preventing him from being admitted to the State Bar of Arizona, without first demonstrating to this Court that there is a good faith basis for his allegations.

4. That the Clerk refuse to accept any complaints tendered by Ronwin which are purportedly filed pursuant to Sections 1983, 1985 and 1986 of Title 42 of the United States Code without an order of this Court authorizing the filing of the complaint.

5. That the Clerk give notice of this Court's orders to the other judges in this District and to the Clerk's office in Tucson, Arizona.

6. Denying plaintiff's motion for award of attorney's fees.

7. Granting defendants' motion for award of attorney's fees.

8. That defendants submit within 10 days a memorandum setting forth the applicability

of the guidelines approved in Kerr v. Screen Extras Guild, Inc., 526 F.2d 67, 69-70 (9th Cir. 1978), for determining a reasonable attorney's fee to their claim for attorney's fees in this case, together with an affidavit averring the time and labor required for legal services in representing the defendants in this case and the customary hourly charge of each lawyer and paralegal who provided legal services in behalf of defendants.

DATED this 21 day of November, 1983.

/s/ CHARLES L. HARDY
CHARLES L. HARDY
Judge of the United States District Court

cc: all counsel of record

JUDGMENT ON DECISION BY THE COURT
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

FILED: Nov. 30, 1983

EDWARD RONWIN,
Plaintiff,

CIV 83-1036 PHX CLH

vs.

JUDGMENT

HONORABLE WILLIAM A. HOLOHAN, et al.,
Defendant.

This action came on for hearing before the Court, the Honorable Charles L. Hardy, United States District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED dismissing the complaint as to the defendant Justices of the Arizona Supreme Court for lack of subject matter jurisdiction.

IT IS FURTHER ORDERED AND ADJUDGED granting summary judgment in favor of the defendants McGregor and von Ammon for the reason that there is no genuine issue of material fact and they are entitled to summary judgment as a matter of law.

IF(sic) IS FURTHER ORDERED AND ADJUDGED that Plaintiff Edward Ronwin be restrained from filing any action in this court or any other court pursuant to Sections 1983, 1985 and 1986 of Title 42 of the United States Code against the Justices of the Arizona Supreme Court, members of the State Bar of

attorney's fees.

/s/ CHARLES L. HARDY
CHARLES L. HARDY
United States District Judge

cc: all counsel of record

JUDGMENT ON DECISION BY THE COURT
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

(Caption)

Filed: Dec. 27, 1983

CIV 83-1036 PHX CLH

JUDGMENT
FOR ATTORNEY'S FEES

This action came on for hearing before the Court, the Honorable Charles L. Hardy, United States District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED AND ADJUDGED that judgment be entered in favor of Philip E. von Ammon and Ruth V. McGregor, two of the defendants and the attorneys for the other defendants, and against the plaintiff in the sum of $9,500 as and for attorney's fees.

DATED at Phoenix, Arizona, this 27th day of December, 1983.

W.J.FURSTENAU, CLERK

By Virrana(?) M. Martinez
Deputy Clerk

Arizona and any other persons, alleging that the defendants have conspired to deprive Mr. Ronwin of constitutional rights by preventing him from being admitted to the State Bar of Arizona, without first demonstrating to this Court that there is a good faith basis for his allegations.

DATED at Phoenix, Arizona, this 30th day of November, 1983.

W.J.FURSTENAU, CLERK

By Virrana(?) M. Martinez
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

(Caption)

Date: Dec. 22, 1983

Filed: Dec. 27, 1983

CIV 83-1036 PHX CLH

(This document has no title but is obviously an order).

On November 22, 1983, the Court granted the motion of the defendants for an award of attorney's fees and directed them to submit a memorandum in support of the amount

to be awarded. They have done so. They request an award in the total amount of $9,336.

Plaintiff has responded with a response and a supplement. He does not dispute the reasonableness of the amount claimed by defendants. Instead and characteristically, he accuses the attorney's for defendants of lying and the undersigned Judge of "favoritism, corruption and foul behavior." By doing so, he again confirms the correctness of the refusal of the Arizona Supreme Court to admit him to the practice of law in the State of Arizona.

The Court finds that the defendants' claim for attorney's fees is reasonable. An additional increment will be added as compensation for the time employed by counsel for the defendants in preparing its submission and in filing a reply to the responses of plaintiff.

IT IS ORDERED that the Clerk enter judgment in favor of Philip E. von Ammon and Ruth V. McGregor, two of the defendants and the attorneys for the other defendants, and against the plaintiff in the sum of $9,500 as and for